

CHAPTER 88

HUMAN SERVICES - SOCIAL SERVICES

HOUSE BILL 22-1245

BY REPRESENTATIVE(S) Daugherty and Van Beber, Bacon, Bernett, Bird, Boesenecker, Duran, Exum, Gray, Herod, Hooton, Jodeh, Kennedy, Kipp, Lindsay, McCluskie, Mullica, Ricks, Snyder, Titone, Valdez D., Woodrow;
also SENATOR(S) Zenzinger, Buckner, Ginal, Gonzales, Lee, Pettersen, Priola, Rankin, Fenberg.

AN ACT**CONCERNING CLARIFICATIONS RELATED TO THE FOSTER YOUTH IN TRANSITION PROGRAM.**

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. In Colorado Revised Statutes, 19-1-103, **add** (53.5) as follows:

19-1-103. Definitions. As used in this title 19 or in the specified portion of this title 19, unless the context otherwise requires:

(53.5) "DEPENDENT ON THE COURT" MEANS A YOUTH IS UNDER THE JUVENILE COURT'S JURISDICTION; THE YOUTH WAS AT ANY TIME ADJUDICATED DEPENDENT OR NEGLECTED, AS DESCRIBED IN SECTION 19-3-102, OR THAT THE COURT HAS FOUND SUFFICIENT EVIDENCE THAT THE YOUTH HAS BEEN SUBJECTED TO CHILD ABUSE OR NEGLECT, AS DEFINED IN SUBSECTION (1) OF THIS SECTION; AND THE YOUTH IS IN NEED OF OVERSIGHT AND SUPPORTIVE SERVICES AS DETERMINED BY THE COURT.

SECTION 2. In Colorado Revised Statutes, **add** 19-2.5-613 as follows:

19-2.5-613. Advisement of services. (1) FOR ANY JUVENILE WHO IS SIXTEEN YEARS OF AGE OR OLDER, BEFORE TERMINATING JURISDICTION, THE COURT SHALL ADVISE THE JUVENILE THAT:

(a) IF THE JUVENILE WAS IN FOSTER CARE AT SIXTEEN YEARS OF AGE OR OLDER, OR IN NONCERTIFIED KINSHIP CARE AND ADJUDICATED DEPENDENT AND NEGLECTED, THEN THE JUVENILE HAS THE RIGHT TO BEGIN VOLUNTARILY RECEIVING CHILD WELFARE SERVICES ON OR AFTER REACHING EIGHTEEN YEARS OF AGE THROUGH THE FOSTER YOUTH IN TRANSITION PROGRAM, ESTABLISHED IN PART 3 OF ARTICLE 7 OF THIS TITLE 19, UNTIL THE JUVENILE'S TWENTY-FIRST BIRTHDAY, OR SUCH GREATER

Capital letters or bold & italic numbers indicate new material added to existing law; dashes through words or numbers indicate deletions from existing law and such material is not part of the act.

AGE OF FOSTER CARE ELIGIBILITY AS REQUIRED BY FEDERAL LAW;

(b) THE FOSTER YOUTH IN TRANSITION PROGRAM PROVIDES THE JUVENILE WITH ACCESS TO FINANCIAL SUPPORT FOR HOUSING AND OTHER SERVICES, AS OUTLINED IN SECTION 19-7-305; AND

(c) IF THE JUVENILE IS ELIGIBLE FOR THE FOSTER YOUTH IN TRANSITION PROGRAM, THE JUVENILE HAS THE RIGHT TO COUNSEL THROUGH THE OFFICE OF THE CHILD'S REPRESENTATIVE.

SECTION 3. In Colorado Revised Statutes, 19-3-203, **amend** (4) as follows:

19-3-203. Guardian ad litem. (4) A guardian ad litem already appointed to represent a youth's best interests pursuant to this article 3 shall begin acting as counsel and providing client-directed representation immediately upon the youth's eighteenth birthday and shall act in this role until either the case is dismissed or new counsel is appointed, unless the youth is deemed incapacitated pursuant to section ~~19-3-704~~ COURT DETERMINES A GUARDIAN AD LITEM IS NECESSARY DUE TO THE YOUTH'S DIMINISHED CAPACITY, in which case the guardian ad litem shall remain in that role and separate counsel for the youth shall be appointed.

SECTION 4. In Colorado Revised Statutes, 19-3-205, **repeal** (2) as follows:

19-3-205. Continuing jurisdiction. (2) ~~(a) Commencing January 1, 2012, the court shall consider the individual circumstances of each youth in out-of-home placement who is at least seventeen years of age but who has not yet reached eighteen years of age to determine if the youth is ready to become independent upon reaching eighteen years of age or whether the youth should remain under the care and supervision of the county until the youth reaches twenty-one years of age unless earlier terminated by court order. The court shall determine if the youth is engaged in one of the following activities:~~

~~(I) Completing secondary education or is enrolled in a program leading to an equivalent credential;~~

~~(II) Enrolled in an institution that provides postsecondary or career and technical education;~~

~~(III) Participating in a program or activity designed to promote or remove barriers to employment; or~~

~~(IV) Employed for at least eighty hours per month.~~

~~(b) If a youth's medical condition makes him or her incapable of engaging in any of the activities described in subparagraphs (I) to (IV) of paragraph (a) of this subsection (2), the applicable county department shall maintain information about the youth's condition in the youth's case plan.~~

SECTION 5. In Colorado Revised Statutes, 19-3-705, **amend** (1) and (5) as follows:

19-3-705. Transition hearing. (1) When a youth turns eighteen years of age while ~~in foster care or noncertified kinship care~~ THE YOUTH IS A NAMED CHILD OR IS A YOUTH IN A DEPENDENCY AND NEGLECT CASE OPEN THROUGH THIS ARTICLE 3, the court shall hold a transition hearing within thirty-five days after the youth's eighteenth birthday. The purpose of the transition hearing is to determine whether the youth will opt into the foster youth in transition program, established in section 19-7-303, or, alternatively, choose to emancipate.

(5) WITH THE YOUTH'S CONSENT, the court may continue the emancipation transition hearing for up to one hundred nineteen days to allow time to improve the youth's emancipation transition plan, gather necessary documents and records, or for any other reason necessary to allow the youth a successful transition to adulthood. ~~The youth's wishes and willingness to remain engaged in the process must be a strong consideration in whether a continuance is granted.~~

SECTION 6. In Colorado Revised Statutes, 19-7-304, **amend** (1)(b) as follows:

19-7-304. Eligibility and enrollment. (1) An eligible youth is an individual who:

(b) HAS A CURRENT DEPENDENCY AND NEGLECT CASE OR has current or recent prior foster care or kinship care involvement in AT LEAST one of the following ways:

(I) The youth was in foster care, as defined in section 19-1-103, on or after the youth's sixteenth birthday; ~~or~~

(II) The youth was in noncertified kinship care, as defined in section 19-1-103, on or after the youth's sixteenth birthday and was adjudicated dependent and neglected pursuant to article 3 of this title 19; OR

(III) THE YOUTH TURNED EIGHTEEN YEARS OF AGE WHEN THE YOUTH WAS A NAMED CHILD OR YOUTH IN A DEPENDENCY AND NEGLECT CASE OPEN THROUGH ARTICLE 3 OF THIS TITLE 19.

SECTION 7. In Colorado Revised Statutes, 19-7-305, **amend** (1)(b) as follows:

19-7-305. Available services and supports. (1) Each county department shall offer, at a minimum, the following services and supports to participating youth in the transition program:

(b) ~~(A)~~ Assistance with securing safe, affordable, and stable housing ~~if a county department has legal authority for physical placement~~ IN THE FOLLOWING WAYS:

~~(A)~~ (I) The participating youth's ~~housing is~~ LIVING EXPENSES ARE fully or partially funded through foster care maintenance payments, in addition to any other housing assistance the youth is eligible to receive. Any expectations for the youth to contribute to the youth's own expenses must be based upon the youth's ability to pay;

~~(B)~~ (II) With the participating youth's consent, the participating youth's housing may be in any placement approved by the county department or the court for which

the participating youth is otherwise eligible, INCLUDING A LICENSED HOST FAMILY HOME, AS DEFINED IN SECTION 26-5.7-102 (3.5), OR A SUPERVISED INDEPENDENT LIVING PLACEMENT, and that is the least restrictive option to meet the participating youth's needs; or

~~(C)~~ (III) If the participating youth needs placement in a qualified residential treatment program, then such placement must follow all relevant procedures pursuant to section 19-1-115 concerning the placement of a child or youth in a qualified residential treatment program.

~~(H) If a county department does not have legal authority for physical placement, the participating youth may:~~

~~(A) Reside anywhere that the participating youth is otherwise eligible to reside, including a licensed host family home, as defined in section 26-5.7-102 (3.5); and~~

~~(B) Access any financial support for housing that the participating youth is otherwise eligible to receive.~~

SECTION 8. In Colorado Revised Statutes, 19-7-306, **amend** (1)(a); and **add** (1)(a.5) as follows:

19-7-306. Voluntary services agreement. (1) A voluntary services agreement entered into pursuant to this part 3 is a binding standardized agreement, written in a client-driven and developmentally appropriate manner, between the county department and a participating youth. The agreement specifies the terms of the youth's participation in the transition program, including, at a minimum:

(a) The participating youth's ~~status as a legal adult~~ RETENTION OF ALL RIGHTS AND RESPONSIBILITIES THE YOUTH WOULD OTHERWISE HAVE, as described in section 19-7-304 (5);

(a.5) ESTABLISHING THE LEGAL AUTHORITY FOR PLACEMENT WITH THE COUNTY DEPARTMENT;

SECTION 9. In Colorado Revised Statutes, 19-7-307, **amend** (2) and (6); **repeal** (3); and **add** (1.5) as follows:

19-7-307. Petition - form and content. (1.5) FOR A YOUTH WHO IS ENTERING THE FOSTER YOUTH IN TRANSITION PROGRAM DIRECTLY FROM A CASE THROUGH THIS TITLE 19, AT THE YOUTH'S OPTION, THE PETITION MUST BE FILED IN EITHER THE COUNTY WHERE THE YOUTH SELF-ATTESTS TO RESIDE OR A COUNTY THAT IS CURRENTLY SERVING THE ELIGIBLE YOUTH. FOR A YOUTH WHO DOES NOT HAVE A CURRENT CASE PURSUANT TO THIS TITLE 19, THE PETITION MUST BE FILED IN THE COUNTY WHERE THE YOUTH SELF-ATTESTS TO RESIDE.

(2) The petition must plainly set forth the facts that bring the participating youth under the court's jurisdiction. The petition must also state the participating youth's name, age, and ~~county where the participating youth self-attests the participating youth resides.~~ WHY VENUE IN THIS COURT IS PROPER PURSUANT TO SUBSECTION (1.5) OF THIS SECTION. THE PETITION MUST STATE THAT THE YOUTH IS VOLUNTARILY

ENTERING FOSTER CARE AND ONE OF THE FOLLOWING, WHICHEVER IS APPLICABLE:

(a) THE YOUTH WAS REMOVED FROM HOME PRIOR TO THE YOUTH REACHING EIGHTEEN YEARS OF AGE PURSUANT TO A JUDICIAL DETERMINATION THAT IT WAS CONTRARY TO THE YOUTH'S WELFARE TO REMAIN IN THE HOME, THAT REASONABLE EFFORTS WERE MADE TO KEEP THE YOUTH IN THE HOME, AND THAT BECAUSE THE YOUTH HAS REMAINED IN FOSTER CARE CONTINUOUSLY, A NEW COURT-ORDERED REMOVAL IS NOT REQUIRED; OR

(b) REASONABLE EFFORTS TO PREVENT REMOVAL WERE NOT REQUIRED BECAUSE A YOUTH WHO IS EIGHTEEN YEARS OF AGE OR OLDER MAY ENTER INTO THE VOLUNTARY SERVICES AGREEMENT ON THE YOUTH'S OWN BEHALF.

~~(3) In each case where removal of a participating youth from the home is sought, the petition must either state that reasonable efforts were made to prevent foster care, including a summary of those efforts, or, if no services to prevent out-of-home placement were provided, the petition must contain an explanation of why such services were not provided or a description of the emergency that precluded the use of services to prevent foster care or out-of-home placement. Assignment of legal authority for physical placement of a participating youth to a county department for purposes of placement in a supervised independent living placement constitutes a removal and is foster care.~~

(6) The petition must be accompanied by a copy of the voluntary services agreement executed pursuant to section 19-7-306; ~~and~~ EXCEPT THAT WHEN THE YOUTH FILES THE PETITION ON THE YOUTH'S OWN BEHALF, THE VOLUNTARY SERVICES AGREEMENT NEED ONLY BE EXECUTED BY THE YOUTH AND DOES NOT REQUIRE A SIGNATURE BY THE COUNTY DEPARTMENT AT THE TIME THE PETITION IS FILED. For a participating youth entering the transition program directly from an open case pursuant to article 3 of this title 19, the petition must also include a current copy of the participating youth's roadmap to success.

SECTION 10. In Colorado Revised Statutes, 19-7-308, **amend** (2) as follows:

19-7-308. Right to counsel - guardian ad litem - representation of petitioner.

~~(2) A participating youth who is eighteen years of age or older and, due to diminished capacity, needs a guardian ad litem may also have a guardian ad litem appointed from the list of attorneys approved by the office of the child's representative~~ WHEN A COURT DETERMINES A GUARDIAN AD LITEM IS NECESSARY FOR A PARTICIPATING YOUTH DUE TO THE YOUTH'S DIMINISHED CAPACITY, THE COURT SHALL APPOINT A GUARDIAN AD LITEM FROM THE LIST OF ATTORNEYS APPROVED BY THE OFFICE OF THE CHILD'S REPRESENTATIVE. THE COURT SHALL NOT DEEM A GUARDIAN AD LITEM TO BE A SUBSTITUTE FOR COUNSEL FOR YOUTH.

SECTION 11. In Colorado Revised Statutes, **add** 19-7-309.5 as follows:

19-7-309.5. Initial hearings. (1) THE COURT SHALL SET THE MATTER FOR AN INITIAL HEARING WITHIN FIFTY-SIX DAYS OF RECEIPT OF A PETITION FILED PURSUANT TO THIS SECTION, AND THE COURT SHALL APPOINT COUNSEL FOR YOUTH FOR THE PETITIONING YOUTH. IF THE OFFICE OF THE CHILD'S REPRESENTATIVE HAS ALREADY ASSIGNED COUNSEL, THE COURT SHALL APPOINT THE SAME ATTORNEY.

(2) AT THE INITIAL HEARING, THE COURT SHALL ADVISE THE YOUTH THAT:

(a) SERVICES PROVIDED THROUGH THE TRANSITION PROGRAM ARE VOLUNTARY FOR THE YOUTH, AND THE YOUTH MAY REMAIN IN THE TRANSITION PROGRAM UNTIL THE LAST DAY OF THE MONTH IN WHICH THE YOUTH TURNS TWENTY-ONE YEARS OF AGE, OR SUCH GREATER AGE OF FOSTER CARE ELIGIBILITY AS REQUIRED BY FEDERAL LAW, SO LONG AS THE YOUTH MEETS ALL OTHER PROGRAM ELIGIBILITY REQUIREMENTS PURSUANT TO SECTION 19-7-304;

(b) IF THE YOUTH CHOOSES TO LEAVE THE TRANSITION PROGRAM BUT LATER DECIDES SUPPORT IS NEEDED, THE YOUTH HAS THE RIGHT TO BEGIN RECEIVING CHILD WELFARE SERVICES AGAIN THROUGH THE TRANSITION PROGRAM; AND

(c) THE YOUTH HAS THE RIGHT TO COUNSEL.

(3) AT THE INITIAL HEARING THE COURT SHALL DETERMINE:

(a) WHETHER THE YOUTH HAS VOLUNTARILY ENTERED FOSTER CARE AND THAT THE COUNTY DEPARTMENT HAS LEGAL AUTHORITY FOR PLACEMENT;

(b) WHETHER IT IS IN THE BEST INTEREST OF THE YOUTH TO BE VOLUNTARILY PLACED IN FOSTER CARE; AND

(c) IF ONE OF THE FOLLOWING APPLIES:

(I) THE YOUTH WAS REMOVED FROM HOME PRIOR TO THE YOUTH REACHING EIGHTEEN YEARS OF AGE PURSUANT TO A JUDICIAL DETERMINATION THAT IT WAS CONTRARY TO THE YOUTH'S WELFARE TO REMAIN IN THE HOME, THAT REASONABLE EFFORTS WERE MADE TO KEEP THE YOUTH IN THE HOME, AND THAT BECAUSE THE YOUTH HAS REMAINED IN FOSTER CARE CONTINUOUSLY, A NEW COURT-ORDERED REMOVAL IS NOT REQUIRED; OR

(II) REASONABLE EFFORTS TO PREVENT REMOVAL WERE NOT REQUIRED BECAUSE A YOUTH WHO IS EIGHTEEN YEARS OF AGE OR OLDER MAY ENTER INTO THE VOLUNTARY SERVICES AGREEMENT ON THE YOUTH'S OWN BEHALF.

(4) IF THE COURT DETERMINES THAT THE REQUIREMENTS OF SUBSECTION (3) OF THIS SECTION ARE MET, THE COURT SHALL FOLLOW PROCEDURES FOR A PERIODIC REVIEW HEARING AS DESCRIBED IN SECTION 19-7-312, AS APPLICABLE.

(5) WHEN A YOUTH HAS BEEN ADJUDICATED DEPENDENT AND NEGLECTED PURSUANT TO SECTION 19-3-102, OR WHEN THERE IS SUFFICIENT EVIDENCE THAT THE YOUTH HAS BEEN SUBJECTED TO CHILD ABUSE OR NEGLECT, AS DEFINED IN SECTION 19-1-103 (1), THE COURT SHALL ENTER A FINDING THAT THE YOUTH IS DEPENDENT ON THE COURT, AS DEFINED IN SECTION 19-1-103 (54). THE COURT MAY ENTER SPECIAL FINDINGS ESTABLISHING THE YOUTH'S ELIGIBILITY FOR DESIGNATION AS A SPECIAL IMMIGRANT JUVENILE PURSUANT TO FEDERAL LAW. THESE FINDINGS MAY BE MADE AT THE INITIAL HEARING OR ANY TIME THEREAFTER.

SECTION 12. In Colorado Revised Statutes, 19-7-310, **repeal** (2)(b) as follows:

19-7-310. Emancipation discharge hearings - emancipation transition plan.

(2) If a participating youth remains in the transition program until the participating youth turns twenty-one years of age, or such greater age of foster care eligibility as required by federal law, at least ninety days prior to the participating youth's last day of eligibility for the transition program, the county department shall provide the participating youth with:

(b) ~~The participating youth's emancipation transition plan; and~~

SECTION 13. In Colorado Revised Statutes, **amend** 19-7-311 as follows:

19-7-311. Permanency planning hearings - notice to parents. A permanency planning hearing must be held for a participating youth under the court's jurisdiction pursuant to this part 3 in the same manner as provided in section 19-3-702; except that permanency hearings need only be held at least every twelve months. THE YOUTH'S PARENT OR PARENTS ARE NOT PARTIES IN PROCEEDINGS PURSUANT TO THIS ARTICLE 7 AND THEREFORE DO NOT REQUIRE NOTICE OF SUCH HEARINGS.

SECTION 14. In Colorado Revised Statutes, 19-7-313, **amend** (2) as follows:

19-7-313. Continuing jurisdiction. (2) The court shall hold the emancipation discharge hearing pursuant to ~~subsection (1)(a)~~ SUBSECTION (1)(c) of this section at least thirty-five days after receipt of the county department's motion to determine whether the participating youth still meets the eligibility requirements for the transition program, including substantially fulfilling the participating youth's obligations set forth in the participating youth's voluntary services agreement. If the participating youth no longer meets the requirements of the transition program and the county department has made reasonable but unsuccessful efforts to reengage the participating youth, then the court shall hold an emancipation discharge hearing to review the participating youth's emancipation transition plan and advise the participating youth as provided in section 19-7-310. The court may accomplish all of these elements in the same emancipation discharge hearing if all of the necessary information has been filed in a timely fashion.

SECTION 15. Act subject to petition - effective date. This act takes effect at 12:01 a.m. on the day following the expiration of the ninety-day period after final adjournment of the general assembly; except that, if a referendum petition is filed pursuant to section 1 (3) of article V of the state constitution against this act or an item, section, or part of this act within such period, then the act, item, section, or part will not take effect unless approved by the people at the general election to be held in November 2022 and, in such case, will take effect on the date of the official declaration of the vote thereon by the governor.

Approved: April 12, 2022